IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION LD.NO.1512 OF 2006

Ramnaresh Mourya. ...Petitioner.

Vs.

State of Maharashtra & Ors. ...Respondents.

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Mr.A.C.Singh with Mr.D.R.Shah for the Petitioner.

Mr.G.W.Mattos, AGP for the Respondents.

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CORAM : DR.D.Y.CHANDRACHUD, J.

July 19, 2006.

P.C. :

The licence of the Petitioner has been suspended for a period of 45 days. The Court has been informed that initially an order of cancellation had been passed but upon remand a lesser penalty of suspension has been imposed.

No breach of the principles of natural justice is complained of at the hearing before this Court. The notice to show cause dated 29th May 2001 adverts to several offences that were registered inter alia under Sections 33(W) and 110 of the Bombay Police Act, 1951. Raids were conducted. The criminal cases resulted in the imposition of a fine on several occasions. The notice to show cause contained three allegations: (i) Keeping open the hotel establishment for more than the prescribed time; (ii) The absence of the proprietor from the hotel establishment; and (iii) Not mentioning the name of the agent on the licence for entertainment in a public place. There is a previous history of default and in 1991 the licence had been suspended. The breach of the conditions of licence has been admitted in the reply to the notice and the Petitioner prayed that a "minimum punishment" should be imposed.

The contention that has been urged is that the Petitioner was already punished under the Bombay Prohibition Act, 1949 by the competent criminal Court and another set of punitive measure

could not have ben adopted. There is no merit in the submission. A punishment for a criminal violation is distinct from an action for a breach of the conditions of licence. Therefore, merely because criminal proceedings are taken in a competent criminal Court for an offence under the Police Act would not operate as a bar to the authorities taking action for breach of the conditions of licence.

Counsel appearing on behalf of the Petitioner submitted that in pursuance of the impugned order, the premises were kept closed for a certain period of time. The Learned AGP disputes this statement at the Bar since no such fact has been pleaded in the petition and in any case, no intimation was given to the concerned Police Station. Nonetheless, the AGP states that if the Petitioner produces sufficient documentary material to establish that prior written intimation was given to the concerned Police Station of the closure of the establishment in pursuance of the impugned order and that the establishment was in fact closed, the impugned order of suspension shall

take effect for the balance of the period of suspension.

The Petition is dismissed.